

PUBLIC LAW BOARD NO. 1532

PARTIES) ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY  
TO )  
DISPUTE) BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

STATEMENT OF CLAIM:

1. That the Carrier's decision to remove Plains Division Trackman A. D. Valadez from service as result of investigation held December 7, 1981 was unjust.
2. That the Carrier now reinstate claimant Valadez to his former position with seniority, vacation, all benefit rights unimpaired and pay for all wage loss beginning January 6, 1982, forward and/or otherwise made whole because the investigation transcript does not contain substantial evidence that claimant violated the rules charged with in the Notice of Investigation and even if the Carrier offered substantial evidence claimant violated the rules, discharge is wholly excessive and harsh.

FINDINGS: This Public Law Board No. 1532 finds that the parties herein are Carrier and Employee within the meaning of the Railway Labor Act, as amended, and that this Board has jurisdiction.

In this dispute the claimant was charged with having marijuana in his possession in Santa Fe Box Car AT-203133 at Ft. Stockton, Texas on November 17, 1981. Pursuant to the investigation the claimant was discharged from the service of the Carrier.

The evidence establishes that on November 17, 1981 Division Special Agent Marvin Cain, Assistant Division Special Agent Curtis Holden, and Special Agent Billy M. Pitzer were inspecting Bunk Car AT-203133 at a siding at Ft. Stockton, Texas.

Special Agent Pitzer testified that there was a brown zipper suitcase on top of one of the bunks, that it was open, and the flap was laid back. He further testified that Special Agent Cain found a box inside the suitcase which was a brown wooden box with carving on the front, top and sides, and in this box he found some plastic bags, pipes, cigarette papers and things of that nature, along with a medicine bottle.

Special Agent Pitzer then testified that the plastic bags contained a green plant substance which was suspected to be marijuana, and they took the boxes out of the bunk car. He further testified there was identification therein for a driver's license for the claimant.

Special Agent Pitzer further testified that he later returned to the bunk car and talked with the claimant, and the claimant identified the suitcase as belonging to him and that the box and the contents thereof were his.

Testimony reveals that later the plant substances in the plastic bags were analyzed and determined to be marijuana.

The Carrier has established rules that it is a serious offense to use or have possession of drugs while on Company property. This is a reasonable rule and one which is uniformly enforced throughout the railroad industry.

The employees should be warned that possession of marijuana, even though not intended for use while on duty or while on Company property, is a serious violation of the Carrier's rules and such will justify permanent discharge.

The claimant herein admitted that the marijuana was his and that he did use marijuana when off duty. Under all of the circumstances involved in this case, it is the opinion of the Board that there is no justification to overrule the decision of the Carrier.

AWARD: Claim denied.

  
Preston J. Moore, Chairman

  
Organization Member

Dated at Chicago, Illinois  
May 28, 1982

  
Carrier Member